

EISENBERG  BAUM, LLP

November 29, 2023

Hon. Ronnie Abrams
United States District Court
Southern District of New York
40 Foley Square, Courtroom 1506
New York, NY 10007

Re: *Hammond-Williams et al. v. Fuchs et al.*, 21-cv-01121(RA)(VF)
Letter Motion

Dear Judge Abrams:

Consistent with Your Honor's Individual Rule (3) and Local Civil Rule 37.2, Plaintiff hereby submits a second letter-motion to compel Defendants Aaron Fuchs d/b/a Tuff City Records; Tufamerica, Inc. d/b/a Swing Beats Songs; and Funky Delicacies Records ("Defendants") to respond to Plaintiff's discovery demands. Pursuant to the discovery conference held on October 30, 2023, fact discovery concludes on November 30, 2023. However, Plaintiff has yet to receive the necessary and requested documents for this matter. Discovery issues in this matter continue.

Plaintiff filed a letter on September 28, 2023, requesting Court intervention due to Defendants' failure to respond to Plaintiff's discovery requests. (ECF 87). Despite multiple court conferences, Defendants failed to provide the additional discovery that was discussed and requested in the prior conferences. Notably, Plaintiff requested Defendants to produce all financial records related to the royalties Defendants received with respect to the use of Roy C. Hammond's compositions from February 3, 2015, to present, in accordance with a 2001 Settlement Agreement. (ECF 87-1, Request for Production No. 23). In response, Defendants only produced a single spreadsheet with purported accounting from 2019-2022. (ECF 87-3).

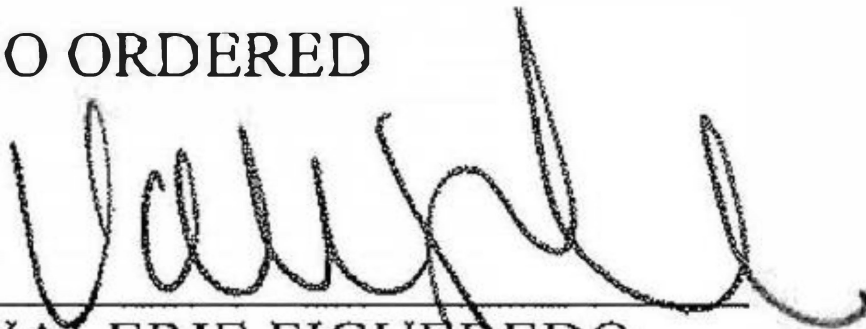
Furthermore, Defendants' letter filed on November 6, 2023, stated that Defendants would provide Plaintiffs with "source documents" within one-week (ECF 96). Defendants did not produce said documents within a week. Instead, Defendants provided the source documents today, one day before the close of fact discovery. Upon review of the "source documents", the documents appear to be unidentifiable Excel spreadsheets from 2019-2021. Plaintiff cannot prosecute a breach of contract claim without the financial documents that are in possession of Defendants. Therefore, Plaintiff respectfully requests the Court to order Defendants to produce the requested discovery and extend the fact discovery deadline. Plaintiff believes Defendants' strategy is to avoid producing documents so that Plaintiff cannot establish her claim. Accordingly, Plaintiff reserves the right to seek all remedies available under law, including sanctions under Federal Rule 11.

Regards,
/s/ Reyna Lubin
Reyna Lubin

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SO ORDERED


A handwritten signature in black ink, appearing to read 'Valerie Figueredo', is written over a horizontal line.

VALERIE FIGUEREDO

United States Magistrate Judge

Dated: December 1, 2023

Fact discovery was extended to November 30, 2023 for the limited purpose discussed at the conference on October 30, 2023 – to address Plaintiff's request for certain financial records related to royalties. Since the conference on October 30, Defendant has been working to provide Plaintiff with the requested information, which was also the topic of discussion at a second conference on November 14, 2023. The deficiencies raised by Plaintiff in its November 29, 2023 letter will be addressed at a conference on **December 6, 2023 at 3:00 p.m.** Counsel for the parties are directed to call Judge Figueredo's AT&T conference line at the scheduled time. **Please dial (888) 808-6929; access code [9781335].**